

Staff Report

City of Loma Linda

From the Department of Community Development

PLANNING COMMISSION MEETING OF JANUARY 11, 2006

TO: PLANNING COMMISSION
FROM: DEBORAH WOLDRUFF, AICP, DIRECTOR
SUBJECT: CONDITIONAL USE PERMIT (CUP) NO. 05-07

SUMMARY

The applicant Mr. Tae Keuk Choe, is requesting a Conditional Use Permit to allow on-site consumption of beer and wine in conjunction with food service at the Maki Yaki²² restaurant located at 3-Star Plaza, 25227 Redlands Boulevard, Suite F & G.

RECOMMENDATION

Staff recommends that the Planning Commission approve Conditional Use Permit (CUP) No. 05-07 based on the Findings, and subject to the Conditions of Approval (Attachment A).

PERTINENT DATA

Applicant:	Mr. Tae Keuk Choe
General Plan:	Neighborhood Specialized Community
Zoning:	East Valley Corridor General Commercial (EVCG)
Site:	Southeast corner of Redlands Boulevard and Poplar Street
Vegetation:	Developed shopping center with related onsite improvements
Special Features:	The existing restaurant occupies 2,080 square feet

BACKGROUND AND EXISTING SETTING

On October 26, 1999, the City Council amended the East Valley Corridor Specific Plan (EVCSP) to permit on-site consumption of beer and wine in the General Commercial (CG), Regional Commercial (RC), and Industrial Commercial (IC) zones subject to the approval of a Conditional Use Permit. Per EV 3.0710, ancillary alcohol use can only be

established in conjunction with a restaurant having between 2,000 and 5,000 square feet of gross floor area.

The restaurant was previously a pizza parlor that opened in January of 1997. Maki Yaki obtained their City business license on March 21, 2005. A restaurant use has been in place for over eight years at this particular location.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) STATUS

The proposed CUP is exempt from the requirements of CEQA pursuant to Section 15301 (*Existing Facilities*) of the CEQA Guidelines. This exemption class addresses operational changes to existing public or private structures involving negligible or no expansion of the use beyond that previously existing. The provision of an ancillary alcohol use in conjunction with food service at the existing restaurant will not result in an expansion of the primary restaurant use.

ANALYSIS

Project Description

Maki Yaki is a full service restaurant located at 25227 Redlands Boulevard within the 3-Star Plaza retail commercial complex (Attachment B) and was established in March, 2005. The 2,080 square foot restaurant is one of 22 Maki Yaki restaurants throughout Southern California (Attachment C). The facility serves lunch and dinner six days a week (Monday - Saturday 11:00 a.m. to 9:00 p.m., closed on Sunday).

Setting & Surrounding Area

Other tenants in the 3-Star Plaza include Nader's Market, Loma Linda Bakery & Café, Pad Thai Restaurant, Western Union, and a Barber Shop. Other than the proposal, there are no facilities that serve alcohol in the center.

The subject parcel is in the City's North Central Neighborhood. To the east of the commercial center is the Janzen Mobile Home Village, to the south and west is multi family housing, to the north across Redlands Boulevard are vacant properties and a medical supply store.

General Plan & Zoning

As stated above, the East Valley Corridor Specific Plan General Commercial (EV/CG) Zone permits on-site consumption of beer and wine in conjunction with food service with an approved Conditional Use Permit (CUP). Pending approval for the CUP, the proposed use is in conformance with the General Plan and Zoning.

ABC (ALCOHOLIC BEVERAGE CONTROL) LICENSE

The applicant is applying for a Type 41 License (Attachment D) through the California Department of Alcoholic Beverage Control (ABC). Type "41" authorizes the sale of beer and wine for consumption on or off the licensed premises. Minors may be on the premises. No distilled spirits may be on the premises (except brandy, rum, or liqueurs used solely for cooking purposes). Meals must be available during the normal meal times in which the premises are exercising the privileges of its license. Normal mealtimes are 11:00 a.m.-2:00 p.m. and 6:00-9:00 p.m.

Maki Yaki Restaurant is located within Census Tract 73.01. According to the Riverside ABC office, this particular census tract allows a maximum of ten (10) on-sale and nine (9) off-sale liquor licenses. Currently, this census tract has five on-sale and three off-sale licenses (Attachment E). Based on the preceding, there is no undue saturation and as such, no finding of "public convenience or necessity" is required.

The closest restaurant that serves alcoholic beverages is Napoli's Restaurant located on Redlands Boulevard approximately 0.5 miles to the west and C2 Market for off-site sale of alcohol approximately 0.25 mile to the east. Therefore, this restaurant will provide a public convenience and necessity to the North Central Neighborhood area for alcohol service.

Additional information is provided in California Penal Code Section 172g, which states sales of alcoholic beverages are not allowed within one ground mile of the Loma Linda University (LLU) campus. Measuring the distance on the City map indicates that Maki Yaki Restaurant is located more than one mile from the LLU campus.

Findings

The following findings must be addressed while considering a Conditional Use Permit. Per Code Section 17.30.210, "The Planning Commission, in approving a conditional use permit, shall find as follows:"

- 1. That the use applied for at the location set forth in the application is properly one for which a conditional use permit is authorized by this title;***

On-site consumption of beer and wine beverages is permitted in the EVCSP provided the use is in conjunction with a restaurant having 2,000 square feet or greater floor area, subject to an approved Conditional Use Permit. The section stipulates that no separate bar service is permitted, and the restaurant must serve food as a matter of complete table service. The Maki Yaki²² Restaurant meets all of the requirements to establish on-site alcohol consumption.

- 2. That the said use is necessary or desirable for the development of the community, is in harmony with the various elements and objectives of the***

general plan, and is not detrimental to existing uses specifically permitted in the zone in which the proposed use is to be located;

As previously stated, the General Plan does not specifically address ancillary alcohol uses. However, the Land Use Element describes the intent of, and uses permitted in, the Redlands Boulevard Commercial Designation. Restaurant uses are permitted to serve and cater to the motoring public along Redlands Boulevard. Many people expect restaurants to serve alcoholic beverages with meals. Ancillary alcohol uses are necessary for full table service restaurants to be successful. The proposed ancillary alcohol use is consistent with the General Plan in terms of general policy and also, within the Neighborhood Specialized Community designation. Existing development in the surrounding area consists of commercial retail, service uses, and other restaurants, none of which would be in conflict with the proposed use. The addition of an ancillary alcohol service compliments the existing menu and is unlikely to result in negative effects such as increased crime, physical deterioration of the neighborhood, or erosion of the neighborhood's business core based on nuisance factors.

3. ***That the site for the intended use is adequate in size and shape to accommodate said use and all of the yards, setbacks, walls, or fences, landscaping and other features required in order to adjust said use to those existing or permitted future uses on land in the neighborhood;***

As indicated, the site has proven to be adequate for restaurant uses for over eight years. The proposed alcohol service will not intensify the primary use or result in impacts to other tenants in the center, or on-site parking or circulation. Additionally, it meets the minimum square footage requirement for a restaurant to serve alcoholic beverages.

4. ***That the site or the proposed use related to streets and highways property designed and improved to carry the type and quantity of traffic generated or to be generated by the proposed use;***

The proposal is adding alcohol sales to an existing restaurant that currently has ingress and egress from Redlands Boulevard and Poplar Street, four and two lane streets (respectively) that can accommodate the type and quantity of traffic generated by the restaurant use. Therefore, the proposed ancillary alcohol use will not add any noticeable traffic to the site or the surrounding area.

5. ***That the conditions set forth in the permit and shown on the approved site plan are deemed necessary to protect the public health, safety and general welfare.***

Implementation of the Conditions of Approval for Conditional Use Permit No. 05-07 will ensure public health, safety and general welfare. For example, Condition 12 requires the applicant and employees to participate and complete a Licensee

Education on Alcohol and Drugs (LEAD) program that informs licensees of the legal, safe, and responsible ways to serve alcohol. Additionally, the project shall comply with the requirement of the EVCSP which states, service of beer and wine is in conjunction with the service of food. No separate bar service for the sale of alcoholic beverages is allowed.

Public Comments

The public hearing notices were sent out on December 22, 2005 and were posted in the newspaper on December 30, 2005. To date, the City has not received any written or oral comments on the projects.

CONCLUSION

The proposal is consistent with the existing General Plan. On-site consumption of alcohol in conjunction with a table service restaurant is conditionally permitted in this General Commercial zone. The proposed use would not expand or intensify the primary restaurant use. It would provide an additional service to the restaurant patrons. Alcohol service is necessary to ensure the success of the facility. Conditional Use Permit No. 05-07 will not be detrimental to the public health and safety and will not impact the existing business and commercial center in a negative manner.

Respectfully submitted,



Raul Colunga,
Assistant Planner

ATTACHMENTS

- A. Conditions of Approval
- B. Project Site Plan and Photos
- C. Applicant's Letter of Request
- D. California Alcoholic Beverage Control (ABC) List of License Types
- E. ABC Census License Information

Attachment A

Conditions of Approval

CONDITIONS OF APPROVAL

CONDITIONAL USE PERMIT NO. 05-07

**MAKI YAKI RESTAURANT
25227 Redlands Boulevard
Suite F & G**

All applicable provisions and requirements of City Codes and Ordinances shall be met for this project. All conditions unless otherwise specifies are due prior to the issuance of building permits. The following specific requirements shall also apply:

COMMUNITY DEVELOPMENT DEPARTMENT

1. Within one year of this approval, the ABC Type 41 License (On-sale Beer and Wine, Eating Place) must be obtained and in force or the permit/approval shall become null and void. In addition, if after obtaining the license, the sale of alcohol beverages is discontinued for a period of one year, the permit/approval shall become null and void.

PROJECT:

CONDITIONAL USE PERMIT NO. 05-07

EXPIRATION DATE:

JANUARY 11, 2007

2. The Owner shall indemnify, protect, defend, and hold harmless the City, and any agency or instrumentality thereof, and officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City, concerning the project and the approvals granted herein. Furthermore, Owner shall indemnify, protect, defend, and hold harmless the City, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against another governmental entity in which Owner's project is subject to that other governmental entity's approval and a condition of such approval is that the City indemnify and defend such governmental entity. City shall promptly notify the Owner of any claim, action, or proceeding. City shall further cooperate fully in the defense of the action. Should the City fail to either promptly notify or cooperate fully, the Owner shall not thereafter be responsible to indemnify, defend, protect, or hold harmless the City, any

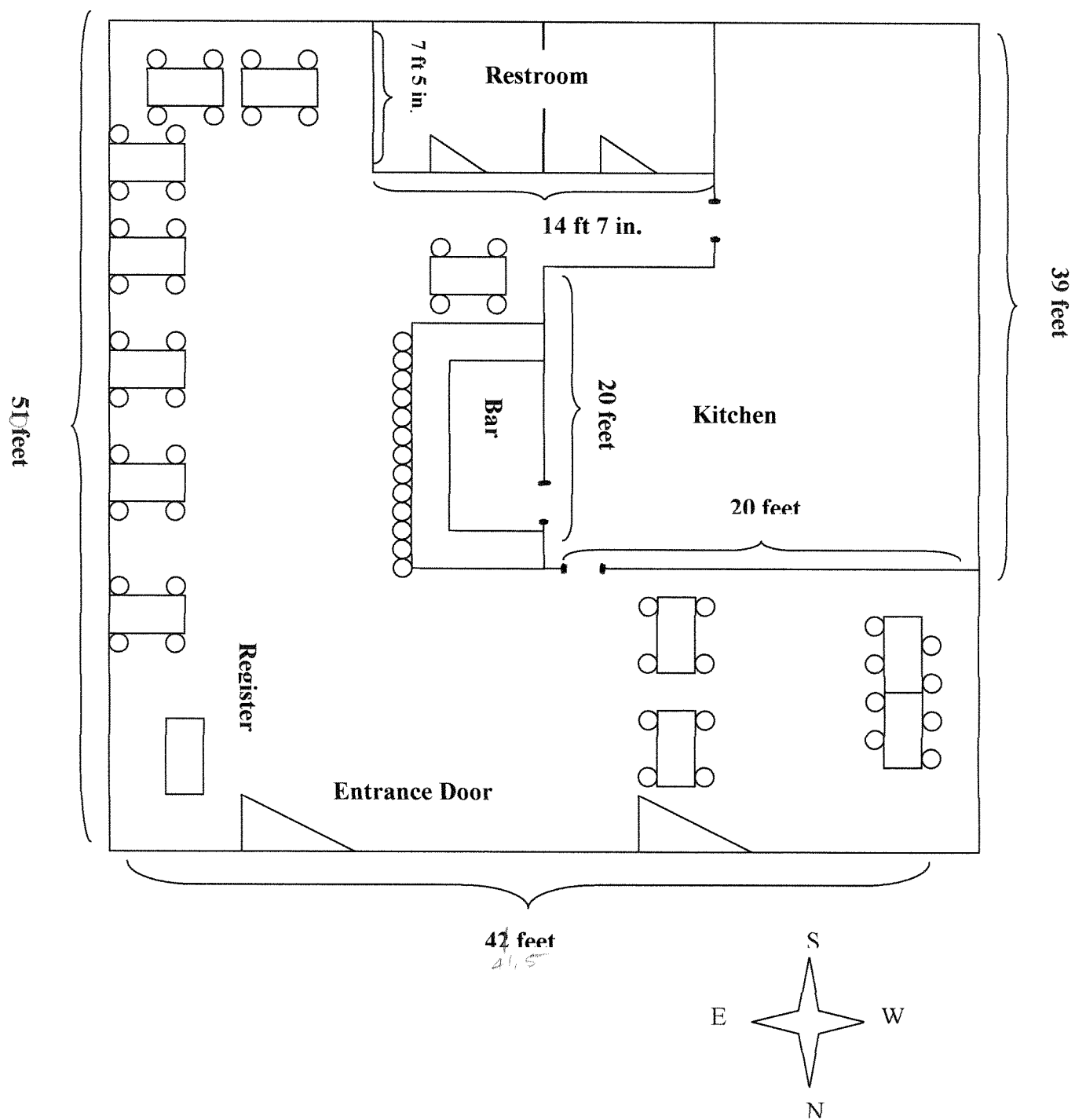
3. agency or instrumentality thereof, or any of its officers, officials, employees, or agents.
4. Authorization for the on-site sales of beer and wine (ABC License Type "41") is contingent upon the use of the subject premises remaining a table service restaurant. Should this use change or be discontinued, authorization for this use permit is null and void and revocation of the CUP shall commence [pursuant to Loma Linda Municipal (LLMC) §17.30.460].
5. The sale of beer and wine requires full table service from the restaurant. No liquor sales are allowed without meal service.
6. Pursuant to above, liquor sales shall not exceed 25% of total sales.
7. The applicant shall be responsible for the posting of signs prohibiting litter or loitering with management enforcing it and maintaining the area free of litter and graffiti. All litter shall be removed from the exterior area around the premises including adjacent public sidewalk areas and parking areas no less frequently than once each day that the business is open.
8. Exterior lighting shall be sufficient and properly maintained to illuminate all areas of the exterior of the building and parking area for easy detection of suspicious and criminal activity.
9. The operator must comply with all City building, fire, zoning, health, and business license regulations.
10. No alcoholic beverages shall be consumed outside of the restaurant on the property under the control of the licensee or the property manager for the center.
11. Hours of sales of beer and wine shall be limited to the hours when food service is available. Menu items shall be available in the restaurant during business hours.
12. If public telephones are located on the premises, they shall be located inside the structure and preset for outgoing calls only.
13. Violation of any Condition of Approval or service of alcoholic beverages to any minor may result in revocation of this Conditional Use Permit pursuant to LLMC 17.30.460.
14. If, in the opinion of the Director of the Community Development Department, a security guard becomes necessary, it shall be the responsibility of the licensee to obtain the security guard services during the hours of operation for the restaurant.

15. The applicant and employees shall participate and complete a LEAD program that informs licensees of the legal, safe, and responsible ways to serve alcohol. (Program summary and contact information will be provided)
16. The Conditional Use Permit may be revoked if the use allowed by the permit becomes a nuisance pursuant to the LLMC Section 17.30.460.

I:\Project Files\CUP\05-07 Maki Yaki\1-11-06 PC Conditions of Approval.doc

Attachment B

Project Site Plan & Photos



Maki Yaki²² Restaurant – Site Photographs



Photo 1: Looking southwest from the project site at the Maki Yaki Restaurant.

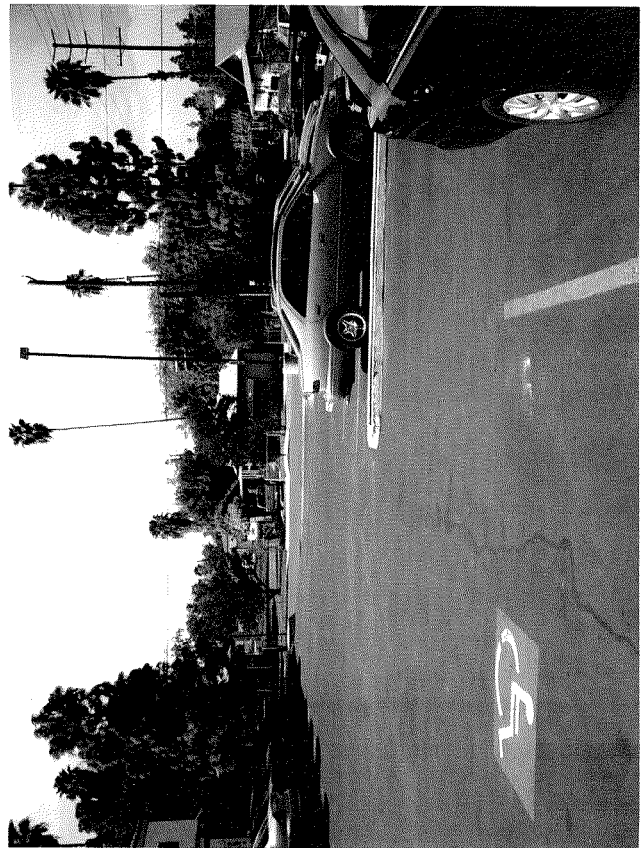


Photo 3: Looking west from the project site at on-site parking and single-family residences across Poplar Street.



Photo 2: Looking northeast at other businesses (Loma Linda Café & Bakery, and Barber Shop) in the neighborhood shopping center.



Photo 4: Looking east from the project site at eastern boundary of property and adjacent mobile home park.

Maki Yaki²² Restaurant – Site Photographs

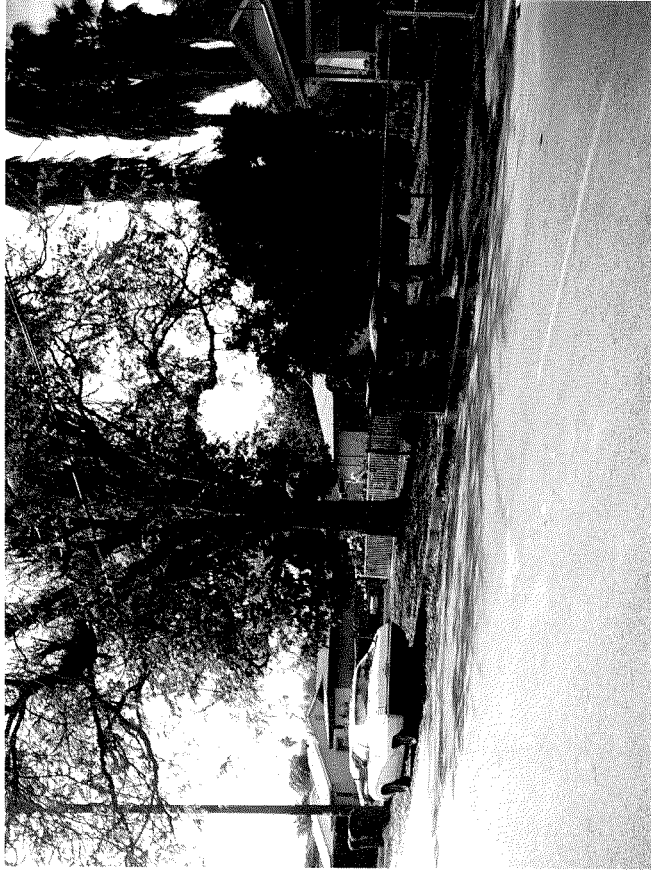


Photo 5: Looking southwest down Poplar Street at single-family residences.



Photo 6: Looking north from Poplar Street at Redlands Boulevard and vacant land and commercial development.

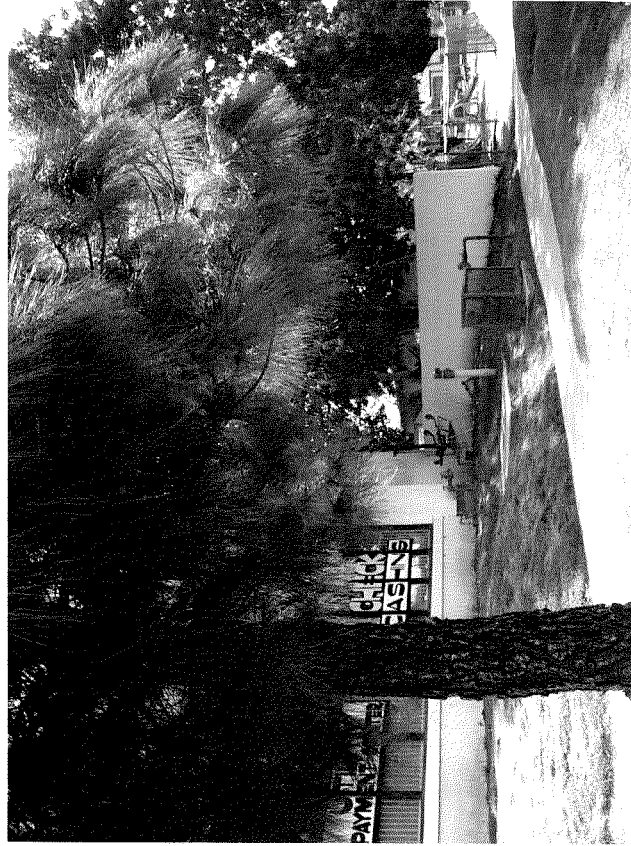


Photo 7: Looking south from Poplar Street at southwest corner of shopping center residence located on and adjacent single-family residence.

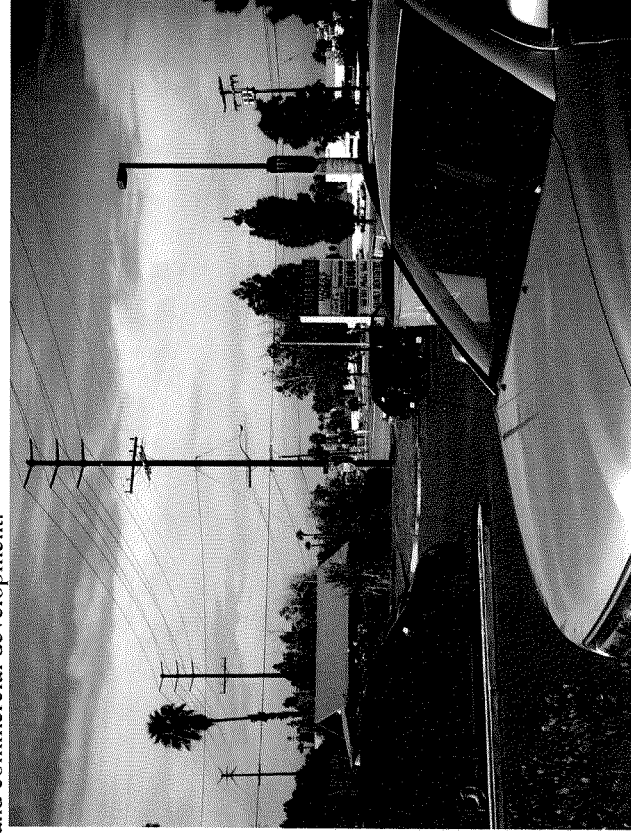


Photo 8: Looking west from the project site at parking area and single-family residence located on the southwest corner of Redlands Boulevard and Poplar Street.

Attachment C

**Applicant's Letter of Request &
Response Letter**

Maki Yaki²²

25227 Redlands Blvd. F&G
Loma Linda, CA 92354
Phone: (909)799-773 ☎ Fax: (909)799-2004

November 21, 2005

Dear Sir or Madam:

I am writing to you today with high hopes in receiving an Alcohol Permit for my Japanese restaurant located in the beautiful city of Loma Linda. Although I was well informed of the difficulty in receiving an approval for this permit, I have submitted my application with this letter, hoping that you will understand my situation and approve my request.

I am a law-abiding American citizen, who works very hard to support the family. Being a businessman, I invest in opportunities that have a potential of making profits to sustain a sense of happiness in my family. However, I also feel it is my responsibility to create a safe but fun environment for my customers. And with a city like Loma Linda, I feel more obliged in keeping with the set standards in order to maintain safety and peace. In my opinion, Maki Yaki²² is a family restaurant, with various assortments of Japanese food. Although I have succeeded in satisfying my customers with a high-quality menu, I still feel disappointed to know I am not providing them with a full Japanese experience. When customers walk out knowing that there will be no saki with their sashimi, I feel I have failed as not only a businessman, but as a self-respecting citizen of the United States.

And with this explanation, I hope you find it in yourself to approve my request in receiving an Alcohol Permit for my restaurant. If I am authorized for this permit, I will take this privilege with great seriousness. You will not have to worry about Maki Yaki²² disobeying the rules that come with this right. Please give us this one chance to prove to the city of Loma Linda that we are capable in handling such a big responsibility. Thank you for taking your time to read this letter, and if you have any question regarding this matter, feel free to contact me at (909) 799-9773.

Sincerely,



Tae Keuk Choe
Owner of Maki Yaki²²

December 20, 2005

Mr. Raul Colunga
Assistant Planner
City of Loma Linda
25541 Barton Road
Loma Linda, CA 92354

Subject: Response to letter dated December 1, 2005 regarding Conditional Use Permit No. 05-07 – Maki Yaki Restaurant.

Dear Mr. Colunga:

This letter is being provided as written response to questions in your letter dated December 1, 2005. The Maki Yaki Restaurant, located at 25527 Redlands Boulevard, is requesting a conditional use permit (CUP), for the on-site sale and consumption of beer and wine. The following are responses to information that was requested in your letter:

Questions 1: Please provide a detailed and dimensioned floor plan (i.e. tables, seating, kitchen, etc.)

Response: The applicant has submitted a detailed floor plan to the City.

Question 2: Please indicate the type of license you are applying for from the State Alcohol Beverage Control.

Response: Beer and Wine only

Question 3: Please provide the number of employees at your restaurant.

Response: Five (5) full-time employees, and five (5) to seven (7) part-time employees

Please feel free to contact my office if you should have any issues of concerns. I can be reached at 909-890-1818.

Sincerely,



Natalie P. Patty
Environmental Analyst, Lilburn Corporation

Attachment D

California Alcoholic Beverage Control (ABC) List of License Types

COMMON ABC LICENSE TYPES AND THEIR BASIC PRIVILEGES

LICENSE TYPE	DESCRIPTION
01	BEER MANUFACTURER - (Large Brewery) Authorizes the sale of beer to any person holding a license authorizing the sale of beer, and to consumers for consumption on or off the manufacturer's licensed premises. Without any additional licenses, may sell beer and wine, regardless of source, to consumers for consumption at a bona fide public eating place on the manufacturer's licensed premises or at a bona fide eating place contiguous to the manufacturer's licensed premises. May conduct beer tastings under specified conditions (Section 23357.3). Minors are allowed on the premises.
02	WINEGROWER - (Winery) Authorizes the sale of wine and brandy to any person holding a license authorizing the sale of wine and brandy, and to consumers for consumption off the premises where sold. Authorizes the sale of all wines and brandies, regardless of source, to consumers for consumption on the premises in a bona fide eating place that is located on the licensed premises or on premises owned by the licensee that are contiguous to the licensed premises and operated by and for the licensee. May possess wine and brandy for use in the preparation of food and beverage to be consumed at the bona fide eating place. May conduct winetastings under prescribed conditions (Section 23356.1; Rule 53). Minors are allowed on the premises.
20	OFF SALE BEER & WINE - (Package Store) Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are allowed on the premises.
21	OFF SALE GENERAL - (Package Store) Authorizes the sale of beer, wine and distilled spirits for consumption off the premises where sold. Minors are allowed on the premises.
23	SMALL BEER MANUFACTURER - (Brew Pub or Micro-brewery) Authorizes the same privileges and restrictions as a Type 01. A brewpub is typically a very small brewery with a restaurant. A micro-brewery is a small-scale brewery operation that typically is dedicated solely to the production of specialty beers, although some do have a restaurant or pub on their manufacturing plant.
40	ON SALE BEER - (Bar, Tavern) Authorizes the sale of beer for consumption on or off the premises where sold. No wine or distilled spirits may be on the premises. Full meals are not required; however, sandwiches or snacks must be available. Minors are allowed on the premises.
41	ON SALE BEER & WINE – EATING PLACE - (Restaurant) Authorizes the sale of beer and wine for consumption on or off the premises where sold. Distilled spirits may not be on the premises (except brandy, rum, or liqueurs for use solely for cooking purposes). Must operate and maintain the licensed premises as a bona fide eating place. Must make actual and substantial sales of meals, during the normal meal hours that they are open, at least five days a week. Normal mealtimes are 6:00 a.m. - 9:00 a.m., 11:00 a.m. - 2:00 p.m., and 6:00 p.m. - 9:00 p.m. Premises that are not open five days a week must serve meals on the days they are open. Minors are allowed on the premises.
42	ON SALE BEER & WINE – PUBLIC PREMISES - (Bar, Tavern) Authorizes the sale of beer and wine for consumption on or off the premises where sold. No distilled spirits may be on the premises. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required.
47	ON SALE GENERAL – EATING PLACE - (Restaurant) Authorizes the sale of beer, wine and distilled spirits for consumption on the licensed premises. Authorizes the sale of beer and wine for consumption off the licensed premises. Must operate and maintain the licensed premises as a bona fide eating place. Must make actual and substantial sales of meals, during the normal meal hours that they are open, at least five days a week. Normal mealtimes are 6:00 a.m. - 9:00 a.m., 11:00 a.m. - 2:00 p.m., and 6:00 p.m. - 9:00 p.m. Premises that are not open five days a week must serve meals on the days they are open. Minors are allowed on the premises.
48	ON SALE GENERAL – PUBLIC PREMISES - (Bar, Night Club) Authorizes the sale of beer, wine and distilled spirits for consumption on the premises where sold. Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required.
49	ON SALE GENERAL – SEASONAL - Authorizes the same privileges and restrictions as provided for a Type 47 license except it is issued for a specific season. Inclusive dates of operation are listed on the license certificate.



Attachment E

ABC Census License Information

12-20-05
03:48 PM**CENSUS TRACT INFORMATION BY CENSUS TRACT WITH ADDRESS
WHERE COUNTY IS 36-SAN BERNARDINO AND CENSUS TRACT IS 0073.01****PAGE: 1**

Census Tract	Types	Status	License Num	Licensee Premises
0073.01	41	ACT	18683	CHAVEZ FLORENCIO G JR 25731 REDLANDS BLVD, REDLANDS CA 92373
0073.01	20	R65	386244	BP WEST COAST PRODUCTS LLC 25715 REDLANDS BLVD, REDLANDS CA 92373
0073.01	20	ACT	348888	SUPER 7 FOOD MART INC 2505 S WATERMAN AVE, SAN BERNARDINO CA 92408
0073.01	20	ACT	360985	DHALIWAL JIT 25403 REDLANDS BLVD, LOMA LINDA CA 92354
0073.01	41	ACT	362021	BHATTI HARINDER KAUR 24960 REDLANDS BLVD, LOMA LINDA CA 92354
0073.01	41	ACT	288208	ARAB ALI 25655 REDLANDS BLVD STES G-I, LOMA LINDA CA 92354
0073.01	41	ACT	363704	LE YVONNE THU THAO THI 25685 REDLANDS BLVD STE C D E, LOMA LINDA CA 92354
0073.01	41	ACT	414350	A HEALTHIER LAS BRASAS MEXICAN RESTAURANT INC 25596 BARTON RD, LOMA LINDA CA 92354